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Paper No.

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CANADA

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Application of	:	
Robert Walther and Detlef	:	
Stoetzel	:	DECISION ON SECOND RENEWED
Application No. 10/757,564	:	PETITION UNDER
Filed: January 15, 2004	:	37 C.F.R. § 1.47(A)
Attorney Docket Number: 1406-	:	
23/MBE	:	
Title: METHOD OF MANUFACTURING	:	
A FUEL FILLER TUBE	:	

This is a decision on the second renewed petition pursuant to 37 C.F.R. § 1.47(a), filed on October 15, 2007.

The second renewed petition pursuant to 37 C.F.R. § 1.47(a) is **GRANTED**.

The above-identified application was filed on January 15, 2004, identifying Robert Walther and Detlef Stoetzel as joint inventors. The declaration which was submitted on filing was not executed by either of the two joint inventors. On April 19, 2004, a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" was mailed, indicating that replacement drawings and a fully executed declaration would be required, along with the surcharge associated with the late filing of the same. The notice set a two-month period for response.

On September 20, 2004, a response was received in the Office, which included a partially executed declaration, the surcharge associated with the late filing of the same, an affidavit,

replacement drawings, a petition fee, and a three-month extension of time (it is noted that September 19, 2004 fell on a Sunday).

A notice of incomplete reply was mailed on October 7, 2004, which did not extend the period for reply, and indicated that the declaration was not fully executed. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on September 20, 2004. A notice of abandonment was mailed on March 27, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.47(a) requires:

- (1) the petition fee of \$200;
- (2) a surcharge of either \$65 or \$130 if the petition is not filed at the time of filing the application, as set forth in 37 C.F.R. § 1.16(f);
- (3) a statement of the last known address of the non-signing inventors;
- (4) either
 - a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
 - b) proof that the non-signing inventor cannot be found or reached after diligent effort, and;
- (5) a declaration which complies with 37 C.F.R. § 1.63.

Two petitions were concurrently filed on May 30, 2006, pursuant to 37 C.F.R. §§ 1.47(a) and 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn. The petition pursuant to Rule § 1.181 was granted and the petition pursuant to Rule 1.47(a) was dismissed via the mailing of a decision on September 15, 2006 for failure to meet requirements (4) and (5) of Rule 1.47(a).

A renewed petition pursuant to 37 C.F.R. § 1.47(a) was filed on March 15, 2007, along with a four-month extension of time to make timely the response, and adequate proof that diligent efforts were made to locate the non-signing inventor. The

renewed petition was dismissed via the mailing of a decision on June 14, 2007 which indicated that the fourth requirement of Rule 1.47(a) had been satisfied.

With this second renewed petition, Petitioner has included a two-month extension of time to make timely the response¹ along with a declaration which complies with 37 C.F.R. § 1.63 that has been properly executed by inventor Stoetzel. It follows that the fifth requirement of Rule 1.47(a) has been satisfied.

Consequently, each of the five requirements of 37 C.F.R. § 1.47(a) has been met, but for the second requirement, which is not applicable.

The above-identified application and papers have been reviewed and found in compliance with 37 C.F.R. § 1.47(a). This application is hereby accorded Rule § 1.47(a) status.

As provided in Rule 1.47, this Office will forward notice of this application's filing to the non-signing inventor at the address that appears on the declaration that was submitted on August 31, 2010. Notice of the filing of this application will also be published in the Official Gazette.

The Office of Patent Application Processing (OPAP) will be notified of this decision, and jurisdiction over the application is transferred to OPAP, so that the application may receive further processing.

Petitioner will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OPAP.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by OPAP in response to the decision of September 15, 2006 which withdrew the holding of abandonment. It is noted that all inquiries with regard to any failure of that change in status should be directed to OPAP where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

¹ It is noted that October 14, 2007 fell on a Sunday.

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision**, should be directed to the undersigned at (571) 272-3225.²

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

² Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.



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OFFICE OF PETITIONS

In re Application of :
Robert Walther and Detlef :
Stoetzel :
Application No. 10/757,564 :
Filed: January 15, 2004 : LETTER
Attorney Docket Number: 1406- :
23/MBE :
Title: METHOD OF :
MANUFACTURING A FUEL FILLER :
TUBE :

Dear Mr. Walther:

You are named a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. § 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application, you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, the attorney of record below would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3225. Requests

for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

/Paul Shanoski/
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